The State Journal.

FRIDAY, FEBRUARY 5, 1875.

PICK-UPS.

Keep your ears warm.

Why don't the Bazoo gives us Sedalia's last sensation?

Secure your tickets for the grand Classical Concert next Monday evening.

CONUNDRUM.—Are you going to the Grand Classical Concert?

Springfield is a market for Arkansas cotton, when it brings 12 to 14 cents per pound.

Ex-Senator Allen, of Jasper, is brousing around the State Capital, fun-loving and mischievous as ever.

The Lutheran Grave Yard case in the Supreme Court was continued, and is not finally decided yet.

The killing of quail and prairie chicken must cease, under the game law. It is the 1st of February.

The ex-Clerk of the Mt. Vernon School township, Lawrence county, is in jail for the embezzlement of School funds.

Nixon, a Republican, and Ross, a Democrat, appear to have been elected to seats in the Con. Con. from the Dallas county District.

Zinc mining promises to outrival the lead business in the Southwest the coming Spring. The discoveries of this mineral in Dade county are said to be very extensive.

Never trust with a secret a married man who loves his wife, for he will tell her, and she will tell her sister, and her sister will tell everybody.

"Dearest, I am lonely to-night without thee" he wrote, and then went and played draw-poker till two o'clock in the morning.

What indulgence does the world extend to those evil speakers who, under the mask of friendship, stab indiscriminately with the keen, though rusty blade of slander.

Married—Bee—Hive—On the 10th instant, by Rev. ——, H. W. Bee and Miss Susan R. Hive. —Warrensburg Journal. The prospects for a "little honey" are decidedly flattering.

A colony of Alsace and Loraine people have purchased of the Atlantic & Pacific Railroad 27,000 acres of land in Dallas and Laclede counties, which the colony will take possession of in the Spring.

Moreau township people would take stock in the South West road not even prospectively, and still they are not happy. They will be glad to take stock in it when it is in operation.

A narrow-guage road is the only road the people of the Osage hills can build. Point it such a road in the direction of the Osage, and put it in operation to the south fork of the Moreau, and it will not be five years before it will find its way across that stream—perhaps at Tuscumbia, and perhaps Linn Creek.

The School Board of Jefferson City passed the following resolution at its meeting last Monday night:

Resolved, That the General Assembly be and is hereby memorialized by the Board of Education of Jefferson City to either *repeal* section 42 of School Law of 1874, or exempt cities and towns from its provisions.

A Missouri woman who applied for a situation as car driver, being asked if she could manage mules, scornfully replied, "Of course I can, I've got two husbands."—Sedalia Bazoo.

We hope there is no such a woman in Sedalia: for most of the women now-a-days are contented with one mu-ley husband.

Returns to the office of Secretary of State from the Ninth Senatorial (Boone) District, foot up as follows:

For Rucker	3,212
" Switzler	2,552
" Boulware	2,533

This settles the question so far as Hon. W. F. Switzler is concerned. He is elected by nineteen majority.

In the U. S. Circuit Court, the case of Anthony vs. Jasper County, was tried Monday, Joseph Shippen, Esq., attorney for plaintiff, and E. J. Montague, Esq., for the defendant, and submitted to the court. The suit is for collection of $9,000 of coupons issued for Marion township, and the defense relied on the fact attempted to be proved that the bonds were ante-dated about six months to avoid the law requiring all bonds to be registered, approved March 30, 1872. The case was taken under advisement. The court will sit again March 1st.

And the old man thought he would do a little gardening, yesterday morning—the sun came out so warm and the air felt so spring-like. So he marked off a place for an onion bed, and began to sing songs as the birds do when the grass turns green. But in half an hour old winter got mad, and came down on that old fool in his shirt sleeves like a mountain of snow on a coal of fire. So he threw down his garden seeds, and he now sits by the fire-place, thinking of the difference between almanacs and the uncertainties of the weather.—Sedalia Democrat.

A RARE PERFORMANCE.

The Finest Instrumentalist of the Day Coming to Jefferson City.

It is with great pleasure that Mr. Locke begs to announce that at great expense he has at length effected an engagement with the famous Mendelssohn Quintette Club of Boston, who will positively appear at Bragg Hall Wednesday evening, February 10th. The programme will be entirely new and will embrace selections which have never been rendered in the West. The Club will be accompanied by Miss Fannie Kellogg, a vocalist of brilliant attainment—by Boston critics pronounced the "youngest, handsomest and sweetest-voiced soprano before the American public."

Seats may be obtained at the Postoffice News Stand on and after Saturday morning.

SUPREME COURT DECISIONS.

MONDAY, Feb. 1.

The Supreme Court met to-day and delivered opinions in the following cases:

BY JUDGE WAGNER.

Amanda E. Games et. al., Respondent, vs. Horace Allen, et. al., Appellant. Appeal from Jackson Circuit Court. Judgment affirmed.—This was a suit by plaintiffs to set aside a conveyance of real estate made under a power of sale in a mortgage, and praying to be allowed to redeem. On a hearing of the case, the deed of conveyance was set aside, and the prayer granted. The plaintiffs are the heirs and representatives of the mortgagors, and it appears that in 1859, the mortgage was made to Horace Allen, one of the defendants, in consideration of a certain obligation made and executed by one of the parties of the first part, the condition of which was, that if the maker of the conveyance should pay or cause to be paid, &c., the conveyance to be void, otherwise to remain in full force and effect, and the *party of the first part*, or the Marshal of the Kansas City Court of Common Pleas, was empowered to proceed to sell the mortgaged property, or any part thereof, at public vendue, to the highest bidder, for cash in hand, after giving thirty days notice of the time, place and terms of sale. It was further provided that the said Allen should with the proceeds of the sale, pay, first, the expenses of the trust; and next, whatever might be in arrear and unpaid on the note, and the remainder, if any, to the parties of the first part, or their legal representatives. Defendant Allen was a resident of Ohio; Smith, his agent in Kansas City, requested Marshal Hayden to sell under power contained in mortgage, and at sale, April 18, 1862, Smith became the purchaser for the sum of $3,600, receiving deed dated June 24, 1862, conveyed to Allen for recited consideration of $4,300.

It being contended to the contrary, the Court in its opinion hold the naming of party of *first* part as trustee to sell, was a clerical error patent on its face; that by terms of deed, Allen and the Marshal, were co-trustees; that Smith, being Agent of Allen, the sale to him was the same as sale to Allen, his principal. The Court therefore, sustains the right of plaintiffs to redeem.

Rogers & Peck, Respondents, vs. W. A. Gosnel, Appellant. Appeal from Jackson Circuit Court. Affirmed.

This was a case in which the plaintiff had been employed to sell a piece of land for a consideration amounting to $300. An agreement wes perfected and signed between grantor and defendant for the purchase of the land, by which defendant was to pay half the commission, $150. That agreement was not carried out between grantor and grantee, but another substituted between them, by which transfer was made.—The defendant then refused to pay the $150 because sale was not made as per the first agreement. The Court hold that the defendant was bound to plaintiff by his agreement made to the third party.

State of Missouri, d. e., vs. Wm. H. Luck, p. e. Error to Franklin circuit court. This case is reversed and remanded because of the lower court's ruling in denying the application for a change of venue, upon a petition alleging that the judge was prejudiced, verified by the affidavit of defendant, which he offered to support by the affidavit of two witnesses who were attorneys practicing in that court, on the ground that the evidences was not legal or competent.

State of Missouri, respondent, vs. David Harper, appellant. Judgment affirmed.

This was an appeal from Jasper circuit court, the defendant having been indicted for selling liquor without license, he pleading a license from city of Carthage, which he insisted exempted him from procuring a State and county license. The court decided against him.

State vs. Zack Jones, Error to Callaway circuit court. Writ dismissed because bill of exceptions was not signed.

BY JUDGE VORIES.

State ex rel Peter O. Sullivan vs. A. M. Coffey, defendant. Error to Johnson court of common pleas.

The opinion in this case is on a motion for rehearing.

The proceeding was by quo warranto in the common pleas court by which defendant was ousted as Mayor of Knob Noster, the judgment of ouster being reversed by the Supreme Court. When first considered it was with reference to the two acts of the Legislature, one incorporating the town of Knob Noster, and the other amendatory and supplemental thereof, referred to in the defendant's return, as said acts were published in the published session acts of 1859 and 1870, by which it appears that a large portion of the same territory included in the boundaries of the town of Knob Noster, as defined by the act of 1859, was also included in the territorial limits of said town as defined in amendatory act of 1870. The court therefore held that the act of 1870 was properly an amendatory act, changing and extending the limits of an existing corporation which had been incorporated previous to the adoption of the present constitution, and the act as valid and not in conflict with the 5th section, art. 8 of present constitution. But on motion for rehearing it was made to appear that the act of 1870 included no part of the original town of Knob Noster as incorporated by act of 1859, and was in fact an attempt to create a new corporation in evasion of the constitution by calling it an amendment to an old corporation and by giving it the same name, the corporation thus being created being on different territory and having less than 5000 inhabitants. The court therefore held the act to be unconstitutional and void.

The defendant in the case insisted however that if the act was void, there was no corporation, no such office as mayor, and no one could usurp its duties, and therefore quo warranto was not proper remedy. While saying that this view was not without foundation, the court holds under the circumstances of the case it was the better and so affirms the judgment.

BY JUDGE NAPTON.

J. Hambright, d. e., vs. C. G. Brockman et al, p. e. Error to Jackson. Reversed and remanded.

This was a proceeding instituted by one Hambright, as a purchaser under a sale made by the trustee in a deed conveying land to secure Hambright, and the object of the petition was to establish the equitable title of the grantee in the deed of trust against the defendents, claiming to be tenants in common with him or his wife of the legal title transferred to the plaintiff.

The facts not controverted were that in 1868, at a sale of land in Jackson county, the estate of one Colcord, by Administrator, Wm. Cogswell, became purchaser; but before the administrator made him a deed Cogswell died, leaving three daughters, one the wife of Mathews, and the two others married and made defendants in the case. In 1869, eleven years after this sale, the administrator made a deed for the land to these three daughters of Cogswell's, he having been advised to do so by his law advisor. It would seem from this that the purchase money had not been fully paid till this time. About the same time, in 1869, Mathews and wife borrowed of plaintiff, Hambright, about $600 and made a deed of trust to S. H. Woodson, as trustee, conveying the same land, to secure the payment of this sum. Woodson was authorized to sell in default of payment and after special notice "at the Court-house door in the City of Independence." It seems that when the time for the sale under the advertisement arrived, and for sometime prior thereto, the Court-house at Independence was undergoing repairs and had been in fact partially taken down, and the courts were held in an upper room of a building, on Public Square, over a bank, which had been appointed by order of the county court to the transaction of public business during the reconstruction of the Court-house. These facts were not in controversy, but the petition alleged Cogswell's purchase as mere nominal; that the administrator made the sale to him at his instance, but that his son-in-law, Mathews, was the real purchaser, who, being in failing circumstances, procured his father to buy the land for him, advancing the money to pay for it, this being done to protect the property from Mathew's creditors. The plaintiff therefore prayed that Mathews be decreed the real owner, and that the deed to Cogswell's heirs be considered for the sole benefit of Mathews.

On submission of evidence under instructions, the jury found for the plaintiff and the court entered a decree which decree was objected to on two grounds, first, that the sale at the door of the bank building, occupied as a court-room, was not such a sale as the deed required. This point the court held was not well taken.

The second point was, that the testimony of Hambright in regard to Mathews' admissions, or declarations to him, when he proposed to borrow the money, were inadmissable, which point the Court sustains on the ground that Mathews could not make declarations proffering up his title, nor could he confess away the rights of others, his co-defendants, which declarations were to the effect of destroying the title of Cogswell, who was dead, and of Cogswell's heirs, and to admit the complicity of Cogswell in a concerted fraud upon Mathews' creditors.

W. J. Terrell, et al, appellants, vs Lewis Dixon, et al, respondents. Appeal from Bates. Judgment affirmed.

Robert Stoneman, respondent, vs Atlantic & Pacific Railroad, appellant. Appeal from Newton. Reversed and remanded.

The only question in this case was as to propriety of the instruction given by the Court as follows:

"The Court instructs the jury that if they believe from the evidence that on the 13 h day of September, 1873, the plaintiff's roan mare was struck by the defendant's engine, while running one of its trains, and killed, and that said mare at the time of the killing, was on a public road which was crossed by defendants track, and that defendant failed to ring, or cause to be rung a bell, when at a distance of at least eighty rods, from said crossing, and to continue to ring said bell until said engine and train had crossed the road; or if they believe the defendant or its agents failed to sound a steam whistle attached to the engine when a least eighty rods from such crossing, and continue to sound such whistle at intervals, until the engine and train had crossed the said road, they will find for the plaintiff."

The Court hold, that as a matter of law, the lower Court correctly declared the failure to ring the bell or sound the whistle at the point designated, was negligence, but whether that negligence occasioned the damage complained of, was a question of fact upon which the jury had a right to pass, and the Court had no right to instruct as a matter of law that such negligence was cause of killing.

James Eager, defendant in error, vs. Geo. H. Stover, plaintiff in error. Error to Morgan.—Reversed and remanded.

The question in this case was, whether the jurisdictional question of a judgment of another State showing by its record to have had jurisdiction, could be raised on a suit on such judgment in this State; the Court holding that under a recent decision of the U. S. Court, it could.

BY JUDGE SHERWOOD.

Robert A. Black, p. e., vs. Jacob Gregg et al, d. e. Error to Jackson circuit court. Affirmed. Separate opinion by Judge Hough. Dissenting opinion by Judge Napton.

Wm. James et al, vs. E. W. Bishop et al, Error to Phelps circuit court. Writ dismissed.

Burgert Adams & Co., appellants, vs. Wm. Borchert, Smith and Clark, interpleaders, respondents. Appeal from Bates circuit court. Reversed and remanded.

George Matlock, appellant, vs. Marcus Williams et al, respondent. Appeal from Cooper circuit court. Affirmed.

George H. Connover et al, vs. W. J. Berdine. Appeal from Jackson circuit court. Appeal dismissed.

BY JUDGE HOUGH.

S. C. Douglas, appellant, vs. J. C. Orr, respondent. Appeal from Boone circuit court. Reversed and remanded.

Simmons, Garth & Co., respondents, vs. Milo Currier et al, appellants. Appeal from Henry circuit court. Reversed and remanded.

MOTION DOCKET.

Maupin et al, vs. Jeffries et al. Motion to affirm overruled.

Cook vs. Decker. Motion for supercedeas sustained.

Bounot vs. Party. Motion for rehearing overruled.

Smith et al, Hess et al. Motion for rehearing filed and continued.

Ells vs. Pacific Railroad. Order of court herein amended and whole motion overruled.

Obermayer vs. Thornton. Motion to affirm sustained.

Certain law books were ordered purchased, certain accounts allowed, when Court adjourned till Court in Course, being to 1st Monday in October next.

Our Railroad.

Ever since Wiley & Co. made their new proposition to build a narrow, instead of a wide-gauge road, our press has changed in its advocacy from the one to the other, failing to give any reason why Wiley & Co. should not be held to their former proposition, much more favorable to us. What guarantee have we now that even should the railroad company agree to such an extraordinary proposition as the last, that it would be carried out? Are these gentlemen supposing that they are dealing with children to whom it is only necessary to make a promise in order to secure acceptance? Their 30 lb iron to a yard road sounds childish so far as a useful road to the community is concerned. Their 300,000 dollar paid up stock proposition, and 200,000 dollar first mortgage bonds may do very well for them, but to expect to have it accepted, is, I think, assuming a credulity not found among us.

The advocacy of the building of a railroad to the Moreau, in the hope that in five years the road will be extended, borders on insanity.—Such a road would at once transfer what trade Jefferson City possesses in that direction, to its terminus. It would do more. It would cut off, on account of the gauge, all probabilities of the Alton & Chicago Railroad in building or aid in building the road. It would make a reloading of freights, distined to other markets necessary, thereby causing additional costs and delays.—The local profits at which the Tribune hints, would, as we are in competition in the market to which the freights go, have to come out of the pockets of our merchants, if they are the shippers. As to local freights, they would be unloaded whether brought on a narrow or wide-gauge. I am, however, a decided advocate of a narrow-guage, provided we can get connections so as to let freights going to other markets pass without change. A narrow-gauge road has already been commenced, and near twenty miles graded, in St. Louis county, from St. Louis in the direction of Howell's Ferry. This would leave a gap of ninety miles to connect with such a road here. When the crisis interfered with the progress of the work, arrangements had been made by Mr. H. Clay Ewing and Judge Krekel, then Directors of our road, to have the St. Louis Company, who have sufficient capital, capital subscribed, to declare an extension of their road on the North side of the river to Jefferson City. At the time this extension was made the gentleman last named, at the request of the Board, also examined the St. Louis & Cairo narrow-gauge road, and made a verbal report, which some of the present members recollect. As there is a narrow-gauge road building from Kansas City to St. Louis, the arrangements indicated would be sure to bring that road to our city, giving us the river, Pacific, Chicago, and narrow-guage roads as competitors for business. The narrow-guage railroad enterprises mentioned, are delayed by the crisis, and will again be taken up when it shall have passed. We should take ours up with theirs, and not to the Moreau, but through to the border of our State, and through such of the counties southwest of us as will do their part of the work. Let us earnestly set about to unite all interests southwest of us in a narrow-guage road so as to be ready to go to work when the crisis shall have passed. We cannot do it before, as our bonds, though the best of county bonds in the market, would not now sell for fifty cents on the dollar. This or less is what Wiley & Co. in their proposition estimated them at.

One word as to the benefits of narrow gauge roads. This consists not so much in the reduction of cost of building as in the cheap carrying of freights and passengers. A good solid road-bed, with at least 50 lb. iron to the yard, and everything else corresponding, so as to obtain through the weight of engine the necessary tractive power, light, (say from 3 to 5 ton) freight cars, able to carry 8 to 10 ton of paying freight, will reduce cost of transportation one-third by avoiding the carrying of dead weight.

Let us by no means put into the road 100,000 or 150,000 dollars more, and then have no road and be compelled, ultimately, to invest to an extent beyond our ability and fall into the ranks of repudiating counties because unable to pay our taxes. We have gone far enough, and let us not add another mistake to the one already committed. Warnings are at hand in the vast numbers of suits now pending against many of the best counties in the State. They came involved not so much by fraud as by a mad desire to have roads at any cost. TAX-PAYER.

On the Rampage

The wife of a grocery keeper yesterday resolved herself into a committee of six on woman's rights and took possession of the premises to the utter exclusion of everybody else. Officer Cooper was sent for about seven o'clock, and at once proceeded to the field of battle. He went into the store and asked her what was the matter, when she commenced abusing him. Cooper then went out into the street, when she followed him and heaped anathemas dire upon his devoted head until he was obliged to arrest her. She resisted, and he was forced to drag her all the way to the calaboose. At last his irascible charge was safely deposited in cell No. 3, from whence she will issue to judgment this mornihg.—Sedalia Democrat.

Hon. A. F. Denny of Randolph, Ex-State Senator, is on a visit to his old stamping ground.

CLOSED.

The Cashier of the People's Savings Institution Missing and the Bank Doors Locked.

$62,000 Worth of Excitement

From St. Louis Evening Journal of the 1st.

Persons having occasion to visit the People's Savings Institution, corner of Park and Carondelet avenue, this morning found the doors of that bank locked and were astonished at reading this announcement posted up at the main main entrance:

ST. LOUIS, Feb. 1, 1875.

The default and disappearance of the cashier of this bank compels it to close its doors. As soon as an examination of the condition of the bank is made we will inform our depositors and stockholders.

THE DIRECTORS OF THE PEOPLE'S SAVINGS INSTITUTION.

Inquiry developed the fact that the cashier, Edmund Wuerpel, was missing and the vaults of the bank did not contain a sufficient amount of funds with which to transact any sort of business. Just exactly how things stood was a difficult problem to solve.

The news of the closing of the bank spread through the southern portion of the city like wild-fire, and brought an excited crowd of people, men and women, to the building. They were loud in their demands, denouncing the concern as a fraud and threatening mob violence to the officers. The depositors are largely composed of the middle and poorer classes, and of course, in the event of a permanent suspension of the bank, will suffer almost irreparable damage. A strong detail of police guarded the building and circulated through the crowd and, as none of the bank officials appeared on the scene, matters assumed a quieter aspect. Still at the hour of going to press large numbers of persons are congregated in the vicinity of the place, discussing the probabilities.

It leaks out that Wuerpel on Saturday last drew $62,000 on checks, since which time he has not been seen. This looks bad, but there are those of his friends who are disposed to look at the matter with some hope that all will yet turn out correct. They argue that he may have drawn the amount for the purpose of meeting checks, drafts and other paper maturing today, and that some accident delays his personal appearance at his desk at the bank. But then Wuerpel was so well known that his whereabouts, if in the city, should have been discovered ere this.

His family are ignorant of his whereabouts, having seen nothing of him since Saturday. Some say he was at the bank yesterday, while a gentleman informed our reporter that the much-talked-of cashier had been seen this morning in the western part of the city.

And now as to the effect: If it finally becomes certain that Wuerpel has absconded, the People's Saving Institution is at an end. Its credit and standing have not been the best for some time past and this will finish it. At one time the concern ranked with the best of them but bad investments, a too careless or liberal policy, and other unbusiness like ways, led to its speedy downward career.

Wuerpel, in addition to his position as cashier of this bank, was president of the St. Louis Piano Company, and secretary of the Lieder-Kranz Society. He was the father of eight children, whom with his wife are now residing at No. 935 Hickory street. In habits he was quiet, seeming to live more for his family than anything else. He was rarely seen at public places of amusement, preferring the more congenial enjoyments to be found in his immediate social circle. He was a relative, brother-in-law, we believe, of Dr. Taussig.

LIST OF JURORS

United States Circuit Court.

The following named persons, in pursuance of Rule 21, United States Circuit Court, for the Western District of Missouri, were drawn to serve as Petit Jurors, at the April Term, 1875, and a Venire was ordered to be issued, directed to the Marshal, and returnable on the second day of Term—20th day of April, 1875:

S. Bigelow, Vernon County.
Wesley T. Smith, Bates.
E. L. Clark, Atchison.
J. Merchant, Chariton.
W. C. Toole, Buchanan.
John Barnes, Buchanan.
W. S. Massey, Greene.
F. M. Evans, Mercer.
C. M. C. Schultte, Howell.
J. M. Gingrich, Randolph.
Larkin Patrick, Howard.
A. Van Patten, Jackson.
P. B. Sibley, Newton.
John T. Ward, Lawrence.
J. W. Miller, Barton.
Stephen Frost, (colored), Greene.
C. N. Douglass do Jackson.
Caswell McClurg, do Camden.
James Burrows, Mercer.
J. J. Greer, Hickory.
J. H. Fleet, Carroll.
W. S. Sloan, Johnson
W. H. Byler, Pettis.
W. T. Gratz, Laclede.
L. Maxwell, Buchanan.
D. C. Sterling, Moniteau.
D. A. Stubbs, Livingston.
J. N. Wray, Nodaway.
H. Steineke, Jackson.
H. S. Herrick, Grundy.
W. H. Taylor, Moniteau.
Jeff Jackson, Cedar.
A. S. Wright, Howell.
W. T. Foster, Daviess.
H. L. Dunlap, Linn.
James Taggart, Gentry.